

AMENDED IN ASSEMBLY AUGUST 18, 2014

AMENDED IN ASSEMBLY JUNE 24, 2014

AMENDED IN ASSEMBLY JUNE 10, 2014

AMENDED IN SENATE MAY 7, 2014

AMENDED IN SENATE APRIL 9, 2014

SENATE BILL

No. 985

Introduced by Senator Pavley

February 11, 2014

An act to amend Sections 10561, 10562, 10563, and 10573 of, and to add Sections 10561.5 and 10565 to, the Water Code, relating to stormwater.

LEGISLATIVE COUNSEL'S DIGEST

SB 985, as amended, Pavley. Stormwater resource planning.

Existing law, the Stormwater Resource Planning Act, authorizes a city, county, or special district, to develop a stormwater resource plan that meets certain standards.

This bill would *authorize one or more public agencies to develop a stormwater resource plan. The bill would expand those the standards to include dry weather runoff. This bill would require a stormwater resource plan to be submitted to any applicable regional water management group, to identify and prioritize stormwater and dry weather runoff capture projects for implementation in a prescribed quantitative manner, and to prioritize the use of lands or easements in public ownership for stormwater and dry weather runoff projects. This bill would eliminate the requirement that a stormwater resource plan be consistent with any applicable integrated regional water management*

plan. This bill would require an entity developing a stormwater resource plan to identify in the plan opportunities to use existing publicly owned lands and easements to capture, clean, store, and use stormwater and dry weather runoff either onsite or offsite. This bill would require the State Water Resources Control Board, by July 1, 2016, to establish a ~~policy for compliance with~~ *guidance for purposes of* these provisions. This bill would require the development of a stormwater resource plan and compliance with these provisions to receive grants for stormwater and dry weather runoff capture projects from a bond act approved by the voters after January 1, 2014, except as provided. This bill would define dry weather runoff and stormwater for the purposes of the act and conform the definition of stormwater in the Rainwater Capture Act of 2012.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 10561 of the Water Code is amended to
- 2 read:
- 3 10561. The Legislature hereby finds and declares all of the
- 4 following:
- 5 (a) In many parts of the state stormwater and dry weather runoff
- 6 are underutilized sources of surface water and groundwater
- 7 supplies. Instead of being viewed as a resource, they are often seen
- 8 as a problem that must be moved to the ocean as quickly as possible
- 9 or as a source of contamination, contributing to a loss of usable
- 10 water supplies and the pollution and impairment of rivers, lakes,
- 11 streams, and coastal waters.
- 12 (b) Improved management of stormwater and dry weather
- 13 runoff, including capture, treatment, and reuse by using the natural
- 14 functions of soils and plants, can improve water quality, reduce
- 15 localized flooding, and increase water supplies for beneficial uses
- 16 and the environment.
- 17 (c) Most of California's current stormwater drainage systems
- 18 are designed to capture and convey water away from people and
- 19 property rather than capturing that water for beneficial uses.
- 20 (d) Historical patterns of precipitation are predicted to change
- 21 and an increasing amount of California's water is predicted to fall
- 22 not as snow in the mountains, but as rain in other areas of the state.

1 This will likely have a profound and transforming effect on
2 California's hydrologic cycle and much of that water will no longer
3 be captured by California's reservoirs, many of which are located
4 to capture snow melt.

5 (e) When properly designed and managed, the capture and use
6 of stormwater and dry weather runoff can contribute significantly
7 to local water supplies through onsite storage and use, or letting
8 it infiltrate into the ground to recharge groundwater, either onsite
9 or at regional facilities, thereby increasing available supplies of
10 drinking water.

11 (f) New developments and redevelopments should be designed
12 to be consistent with low-impact development principles to improve
13 the retention, use, and infiltration of stormwater and dry weather
14 runoff onsite or at regional facilities.

15 (g) Stormwater and dry weather runoff can be managed to
16 achieve environmental and societal benefits such as wetland
17 creation and restoration, riverside habitats, instream flows, and an
18 increase in park and recreation lands, and urban green space.

19 (h) Stormwater and dry weather runoff management through
20 multiobjective projects can achieve additional benefits, including
21 augmenting recreation opportunities for communities, increased
22 tree canopy, reduced urban heat island effect, and improved air
23 quality.

24 (i) Proper planning and implementation is vital to ensure that
25 the water supply and other benefits potentially available through
26 better management of stormwater and dry weather runoff do not
27 come at the expense of diminished water quality.

28 (j) The capture and use of stormwater and dry weather runoff
29 is not only one of the most cost-effective sources of new water
30 supplies, it is a supply that can often be provided using significantly
31 less energy than other sources of new water supplies.

32 SEC. 2. Section 10561.5 is added to the Water Code, to read:

33 10561.5. Solely for the purposes of this part, and unless the
34 context otherwise requires, the following definitions govern the
35 construction of this part:

36 (a) "Dry weather runoff" means surface waterflow and
37 waterflow in storm drains, flood control channels, or other means
38 of runoff conveyance produced by nonstormwater resulting from
39 irrigation, residential, commercial, and industrial activities.

(b) “Stormwater” means temporary surface water runoff and drainage generated by immediately preceding storms. This definition shall be interpreted consistent with the definition of “stormwater” in Section 122.26 of Title 40 of the Code of Federal Regulations.

SEC. 3. Section 10562 of the Water Code is amended to read:

10562. (a) ~~A city, county, or special district, either individually or jointly,~~ *One or more public agencies* may develop a stormwater resource plan pursuant to this part.

(b) A stormwater resource plan shall:

(1) Be developed on a watershed basis.

(2) Identify and prioritize stormwater and dry weather runoff capture projects for implementation in a quantitative manner, using a metrics-based and integrated evaluation and analysis of multiple benefits to maximize water supply, water quality, flood management, environmental, and other community benefits within the watershed.

(3) Provide for multiple benefit project design to maximize water supply, water quality, and environmental and other community benefits.

(4) Provide for community participation in plan development and implementation.

(5) Be consistent with, and assist in, compliance with total maximum daily load (TMDL) implementation plans and applicable national pollutant discharge elimination system (NPDES) permits.

(6) Be consistent with all applicable waste discharge permits.

(7) *Upon development, be submitted to any applicable integrated regional water management group. Upon receipt, the integrated regional water management group shall incorporate the stormwater resource plan into its integrated regional water management plan.*

~~(7)~~

(8) Prioritize the use of lands or easements in public ownership for stormwater and dry weather runoff projects.

(c) The proposed or adopted plan shall meet the standards outlined in this section. The plan need not be referred to as a “stormwater resource plan.” Existing planning documents may be utilized as a functionally equivalent plan, including, but not limited to, watershed management plans, integrated resource plans, urban water management plans, or similar plans. If a planning document

1 does not meet the standards of this section, a collection of local
2 and regional plans may constitute a functional equivalent, if the
3 plans collectively meet all of the requirements of this part.

4 (d) An entity developing a stormwater resource plan shall
5 identify in the plan all of the following:

6 (1) Opportunities to augment local water supply through
7 groundwater recharge or storage for beneficial use of stormwater
8 and dry weather runoff.

9 (2) Opportunities for source control for both pollution and
10 stormwater and dry weather runoff volume, onsite and local
11 infiltration, and use of stormwater and dry weather runoff.

12 (3) Projects to reestablish natural water drainage treatment and
13 infiltration systems, or mimic natural system functions to the
14 maximum extent feasible.

15 (4) Opportunities to develop, restore, or enhance habitat and
16 open space through stormwater and dry weather runoff
17 management, including wetlands, riverside habitats, parkways,
18 and parks.

19 (5) Opportunities to use existing publicly owned lands and
20 easements, including, but not limited to, parks, public open space,
21 community gardens, farm and agricultural preserves, schoolsites,
22 and government office buildings and complexes, to capture, clean,
23 store, and use stormwater and dry weather runoff either onsite or
24 offsite.

25 (6) Design criteria and best management practices to prevent
26 stormwater and dry weather runoff pollution and increase effective
27 stormwater and dry weather runoff management for new and
28 upgraded infrastructure and residential, commercial, industrial,
29 and public development. These design criteria and best
30 management practices shall accomplish all of the following:

31 (A) Reduce effective impermeability within a watershed by
32 creating permeable surfaces and directing stormwater and dry
33 weather runoff to permeable surfaces, retention basins, cisterns,
34 and other storage for beneficial use.

35 (B) Increase water storage for beneficial use through a variety
36 of onsite storage techniques.

37 (C) Increase groundwater supplies through infiltration, where
38 appropriate and feasible.

39 (D) Support low-impact development for new and upgraded
40 infrastructure and development using low-impact techniques.

(7) Activities that generate or contribute to the pollution of stormwater or dry weather runoff, or that impair the effective beneficial use of stormwater or dry weather runoff.

(8) Projects and programs to ensure the effective implementation of the stormwater resource plan pursuant to this part and achieve multiple benefits. These projects and programs shall include the development of appropriate decision support tools and the data necessary to use the decision support tools.

(9) Ordinances or other mechanisms necessary to ensure the effective implementation of the stormwater resource plan pursuant to this part.

(e) A stormwater resource plan shall use measurable factors to identify, quantify, and prioritize potential stormwater and dry weather runoff capture projects.

SEC. 4. Section 10563 of the Water Code is amended to read:

10563. (a) ~~Nothing in this~~ *This part interferes does not interfere* with or ~~prevents~~ *prevent* the exercise of authority by a public agency to carry out its programs, projects, or responsibilities.

(b) ~~Nothing in this~~ *This part affects does not affect* requirements imposed under any other ~~provision of~~ law.

(c) (1) The development of a stormwater resource plan and compliance with this part in accordance with Section 10565 shall be required to receive grants for stormwater and dry weather runoff capture projects from a bond act approved by the voters after January 1, 2014.

(2) This subdivision does not apply to ~~funds~~ *either of the following*:

(A) *Funds* provided for the purpose of developing a stormwater resource plan.

(B) *A grant for a disadvantaged community, as defined in Section 79505.5, with a population of 20,000 or less, and that is not a copermittee for a municipal separate storm water system national pollutant discharge elimination system (NPDES) permit issued to a municipality with a population greater than 20,000.*

SEC. 5. Section 10565 is added to the Water Code, to read:

10565. By July 1, 2016, the board shall establish ~~a policy for compliance with~~ *guidance for* this part that shall include, but is not limited to, the following:

1 (a) Identifying *types of* local agencies and nongovernmental
2 organizations that need to be consulted in developing a stormwater
3 resource plan.

4 (b) Defining appropriate quantitative methods for identifying
5 and prioritizing opportunities for stormwater and dry weather
6 runoff capture projects.

7 (c) Defining the appropriate geographic scale of watersheds for
8 stormwater resource planning.

9 (d) Other guidance the board deems appropriate to achieve the
10 objectives of this part.

11 SEC. 6. Section 10573 of the Water Code is amended to read:

12 10573. Solely for the purposes of this part, and unless the
13 context otherwise requires, the following definitions govern the
14 construction of this part:

15 (a) “Developed or developing lands” means lands that have one
16 or more of the characteristics described in subparagraphs (A) to
17 (C), inclusive, of paragraph (4) of subdivision (b) of Section
18 56375.3 of the Government Code.

19 (b) “Rain barrel system” is a type of rainwater capture system
20 that does not use electricity or a water pump and is not connected
21 to or reliant on a potable water system.

22 (c) “Rainwater” means precipitation on any public or private
23 parcel that has not entered an offsite storm drain system or channel,
24 a flood control channel, or any other stream channel, and has not
25 previously been put to beneficial use.

26 (d) “Rainwater capture system” means a facility designed to
27 capture, retain, and store rainwater flowing off a building rooftop
28 for subsequent onsite use.

29 (e) “Stormwater” has the same meaning as defined in Section
30 10561.5.